

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 26034 of 2003(Y)

PETITIONER:

**ASHQUE A.HAQ. ASSISTANT GRADE II,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY. (NOW ON DEPUTATION TO KERALA FISHERMEN'S
WELFARE FUND BOARD, ATTACHED TO THE OFFICE OF THE
REGIONAL EXECUTIVE OF THE BOARD AT TRIVANDRUM)**

**BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW**

RESPONDENTS:

- 1. THE REGISTRAR, SREE SANKARACHARYA
UNIVERSITY OF SANSKRIT, KALADY.**
- *2. P.B. SAKKIR, ASSISTANT GR.II,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY.**
- 3. AJITHA B.S., ASST. GR.II, SREE SANKARACHARYA
UNIVERSITY OF SANSKRIT, KALADY.**
- 4. PRASAD T.S., ASST. GR. II,
SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
KALADY.**

***ADDL. R2 TO R4 ARE IMPEADED AS PER ORDER
DATED 23/01/2004 IN IA NO. 873/2004 IN WPC NO. 26034/2003.**

**R1 BY ADVS. SRI.B.S.KRISHNAN(SR.),SC,SANSKRIT UTY.
SRI.K.ANAND, SC, SANSKRIT UTY.
SMT.LATHA KRISHNAN
SRI.A.V.RAMAKRISHNA PANICKER --R2
SMT.R.SEEMA
SRI.K.J.SAJI ISAAC --R4
SRI.KRISHNAKUMAR MANGOT,
SRI.P.C.SASIDHARAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 26034/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE APPOINTMENT ORDER NO. AD. B. 4006/2000/SSUS(6) DT. 19/08/00 OF THE R1.

EXT.P2. COPY OF THE CREAMY LAYER CERTIFICATE DT. 1/10/2001.

EXT.P3. COPY OF THE REPRESENTATION DT. 09/07/2002 BY THE PETITIONER BEFORE THE RESPONDENT.

EXT.P4. COPY OF THE OBJECTION DT. 20/7/2002 BY THE PETITIONER BEFORE THE R1.

EXT.P5. COPY OF THE MEMO DT. 29/10/2002 SIGNED BY PROFESSOR OF HINDI, IN ADDL. CHARGE OF REGISTRAR.

EXT.P6. COPY OF THE FINAL RADATION LIST DT. 29/10/2002.

EXT.P7. COPY OF THE ORDER NO. AD.BN. 9951/2002/SSUS DT. 17/4/2002 OF THE RESPONDENT NO. 1.

True copy

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KURIAN JOSEPH, J.

W.P.(C) No. 26034 of 2003

Dated 26th February, 2007.

J U D G M E N T

The essential dispute is on the seniority. According to the petitioner, he should have been appointed as an OBC candidate, in which case, he should have got seniority over the additional respondents 2 to 4. According to the additional respondents, there are several others in between them. The contention of the University as well as the contesting respondents is that though the petitioner was directed to produce the non-creamy layer certificate at the time of joining duty on 1.9.2000, he did not produce the same at the time of joining duty. Therefore, he was treated as O.C. candidate and appointed and treated accordingly for the purpose of seniority. The contention of the petitioner is that in the case of several persons, they were given time to produce the creamy layer certificate and on production of the creamy layer certificate, the position was restored.

2. The learned counsel for the contesting respondents submits that the petitioner produced the non-creamy layer certificate only far later and hence the same cannot be taken into account so as to determine the eligibility of the petitioner to be appointed against OBC quota.

3. The crucial question is whether the petitioner belonged to non-creamy layer category at the time of appointment. The certificate produced by the petitioner – Ext.P2, does not give any such indication. If the petitioner is able to produce the certificate to the effect that at the time of joining duty, he was eligible to be appointed against OBC quota, the matter will be duly considered by the University with notice to all affected parties.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

W.P.(C)No. of 2002

J U D G M E N T

Dated 21st February, 2007.